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APR 3 0 2004

In re Application of
Kitawaki, et al.
Application No. 10/676,263
Filed: October 2, 2003
Attorney Docket No. 43888-278
For: ANALYTE SAMPLING ELEMENT,
ANALYTE TREATMENT DEVICE AND
ANALYTE TREATMENT METHOD

DECISION ON
PETITION

OFFICE OF PETITIONS

This is a decision on the petition filed March 9, 2004 requesting that Figure 16 be accorded a filing date of October 2, 2003. The petition will be treated under 37 CFR 1.53(e).

The application was filed on October 2, 2003. On January 12, 2004, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (Notice) informing petitioners, *inter alia*, that Figure 16, as described in the specification, appeared to have been omitted.

Petitioners request that Figure 16 be accorded a filing date of October 2, 2003 on the basis that 11 pages of formal drawing figures, including Figure 16, were received in the Patent and Trademark Office (PTO) on October 2, 2003. In support, the instant petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing October 2, 2003 as the date of receipt. The postcard lists, *inter alia*, that the filing included 11 pages of formal drawings.

The return postcard constitutes *prima facie* evidence that 11 pages of formal drawing figures were filed on October 2, 2003. MPEP 503. A review of the application file reveals that there are only 10 pages of drawing figures present.

Accordingly, the petition under 37 CFR 1.53(e) is **GRANTED**. No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **October 2, 2003**, using the copy of Figure 16 submitted with the instant petition. Office records will be corrected to show that 11 pages of drawings were present on initial filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

A handwritten signature in cursive script, reading "E. Shirene Willis".

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions